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On behalf of the United States Bankruptcy Appellate Panel of the Tenth Circuit (BAP), I am pleased to provide this report on the BAP's ninth full calendar year of operation.

The number of bankruptcy appeals filed in the Tenth Circuit decreased by 9% in 2005, from a total of 183 appeals in 2004 to a total of 166 in 2005. The number of appellants electing to proceed before the BAP in 2005 increased over 2004 from 65% to 79%. From the inception of the BAP on July 1, 1996, through the end of 2005, 132 BAP decisions have been appealed to the Tenth Circuit Court of Appeals. Of these, 118 have been concluded. Fifty-one were decided on the merits resulting in 46 affirmances and 5 reversals. The remaining 67 were dismissed. For the ninth consecutive year, the Judges of the BAP have achieved their goal to dispose of the majority of BAP appeals within 60 days from submission, with a 2005 median "submission to disposition" time of 64 days. The time span from the date the notice of appeal was filed with the Bankruptcy Court to the date the BAP entered a final judgment averaged 150 days.

By a majority vote of the District Court Judges, the District of Colorado authorized the bankruptcy appellate panel to hear and determine appeals originating in the District of Colorado effective January 3, 2005. During calendar year 2005, approximately 70% of appellants elected to have their Colorado bankruptcy appeal proceed before the BAP. At the close of 2005, the BAP's caseload was up 57%, due in part to Colorado's addition to the BAP and in part to the overall increase in the number of appellants electing to proceed before the BAP. The first Colorado BAP oral argument session was held on December 6, 2005. All districts in the Tenth Circuit have now authorized appeals to proceed before the BAP if the parties so elect.

On February 6, 1996, the Judicial Council of the Tenth Circuit authorized the creation of a BAP for an initial three-year period beginning July 1, 1996, and ending June 30, 1999. On May 8, 1999, the Council unanimously voted to authorize the permanent establishment of the BAP in the Tenth Circuit. July 1, 2006, will mark the ten year anniversary of the BAP. It has been my honor and privilege to serve on the BAP and as its Chief Judge during this time. However, the credit for the continued success of the BAP lies with the Bankruptcy Judges of the Tenth Circuit, who have dedicated their time and knowledge to the betterment of the BAP. To all of the Bankruptcy Judges who have contributed to the BAP, I say thank you.

The Council's resolution approving the establishment of the BAP states that "The Chief Judge of the BAP, with the advice and the consent of the Chief Circuit Judge, may from time to time designate any active or recalled bankruptcy judge, not otherwise appointed to the Bankruptcy Appellate Panel, to serve on a pro tem basis." The use of pro tem Judges provides the panel with additional experience and expertise and serves to strengthen the efforts of the BAP. In 2005, three of my colleagues served as pro tem Judges for the BAP, the Honorable Judith A. Boulden, District of Utah, the Honorable Janice Miller Karlin, District of Kansas, and the Honorable Michael E. Romero, District of Colorado. It was an honor to have Judge Boulden, one of the BAP's founding members, sit again with the BAP. On behalf of the BAP, I would like to extend our sincere appreciation to Judge Boulden, Judge Karlin and Judge Romero for their service.

Bankruptcy Judges appointed to the BAP voluntarily assume BAP duties in addition to their trial court caseload. BAP duties can be demanding, requiring substantial legal work, travel, court time, and administrative responsibilities. Until recently, BAP Judges received very little in the way of law clerk assistance. In February of 2000, the Chief Judges and Clerks of the BAPs met in Washington, D.C. to discuss the development of a national formula for the allocation of BAP law clerks. The meeting resulted in the recommendation of a proposed national BAP law clerk formula. Chief Judge Tacha was instrumental in the success of this endeavor. I am pleased to say that the Tenth Circuit BAP now has two law clerk positions authorized, and that these two positions will assist in providing essential legal resources for the nine BAP Judges.

Continuing education of the bankruptcy bar, the public, and other court units remains an important focus of the BAP. The BAP continues to explore and develop methods of disseminating information throughout the Circuit and nationally. As part of its commitment to serving the members of the bar that practice before the BAP, the panel Judges hosted an educational workshop in the Byron White Courthouse on the eve of the BAP's inaugural Colorado oral argument session. The purpose of the presentation was to discuss matters of importance to Colorado's practitioners appearing before the BAP, such as the election process, motion practice, briefing, and oral argument. The Judges offered the attendees their advice based on their combined years of experience on the bench and as members of the BAP. The presentation was well attended, and the comments received from the bankruptcy bar were favorable. As the panel Judges travel the circuit holding oral argument sessions, the Judges intend to continue the presentations, visiting with the bankruptcy bar in each of the districts. I would like to thank the Honorable Glen E. Clark, District of Utah, the Honorable Tom R. Cornish, Eastern District of Oklahoma, and the Honorable Elizabeth E. Brown, District of Colorado, for hosting the first presentation.

In September, 2005, the Tenth Circuit BAP hosted a national Bankruptcy Appellate Panel Judges Conference in Santa Fe, New Mexico. The Conference provided meaningful educational opportunities, together with time for the Judges and staff to socialize and discuss business matters informally. The Honorable Terrence L. Michael, Northern District of Oklahoma, Chair of the Educational Planning Committee, did an excellent job of developing the agenda. Judge Michael successfully engaged the services of Professor Jill J. Ramsfield, Professor of Law and Director of Legal Research and Writing, Georgetown University Law Center, who conducted a presentation on writing effective appellate opinions. The Honorable Michael R. Murphy of the Tenth Circuit Court of Appeals facilitated a discussion on "Judging by Consensus - Tips for Working in Panels." The last national BAP Judges Conference was conducted by the Federal Judicial Center in 1997. The Tenth Circuit BAP Judges appreciated this rare opportunity to gather together as a national group. On behalf of the BAP, I would like to extend our appreciation to Judge Murphy for his attendance and presentation. I would also like to thank Judge Michael, whose dedication and commitment made the Conference a success. And, not to be forgotten, I would also like to thank those who assisted with the myriad of details in an undertaking of this nature: Julie Baehr, Yvonne Horan, and Linda Rivas, of the Office of the Circuit Executive, and Patrick Wyman, of the Court of Appeals Clerks Office.

The long awaited appellate version of the Case Management/Electronic Case Files (CM/ECF) project has arrived at the Tenth Circuit. CM/ECF is the new automated case management and docketing system developed specifically for the federal courts by the Administrative Office of the U. S. Courts. The case management and docketing (CM) portion replaces the aging software currently in use by most courts. The electronic case files (ECF) portion allows courts to manage documents with "electronic case files," and provides electronic access to court files by Judges, court staff, and the public. The ECF portion also allows for paper filings to be accepted in an electronic format over the Internet. The docket and electronic case files will be available to Court and the public, 24-hours a day, every day.

Testing and development of the software is currently in progress by the BAP Clerk's Office staff along with the Tenth Circuit's CM/ECF systems team consisting of Regi Aichlmayr, Systems Administrator, Chris Galanek, Applications Developer, and Curt Thompson, Automation Support Specialist. Josh Dougan was recently brought on board as the Project Manager, replacing Betsy Shumaker, who for the past year has volunteered her time and energy in managing this project in addition to maintaining her normal workload. I would like to thank the Tenth Circuit's systems team, and Ms. Shumaker, for their dedication to this project. The BAP looks forward to the successful implementation of CM/ECF, currently scheduled for the Winter, 2006.

Once again in closing, I must acknowledge that the accomplishments of the BAP would not have been possible without the considerable assistance and support of the Judges of the Tenth Circuit Court of Appeals, the Office of the Circuit Executive, the Tenth Circuit Clerk's Office, the District and Bankruptcy Court Judges and Clerks' Offices, the Bankruptcy Appellate Panel Clerk's Office, as well as my colleagues. Their support and advice are always very much appreciated.